



**Department of Health and Human Services  
Office of the Commissioner  
Policy and Procedure Statement**

Policy # DHHS-11-04

Issue Date: 7/15/04

Revised Date:

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
POLICY AND PROCEDURE STATEMENT**

**I. SUBJECT**

Policy Regarding Reasonable Accommodations under The Americans with Disabilities Act and Section 504 of the Rehabilitation Act

**II. POLICY STATEMENT**

The Americans with Disabilities Act and Section 504 of the Rehabilitation Act require employers to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless they can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

Additionally, the Employment Regulations of the Maine Human Rights Commission state: "It's an unlawful employment practice for employers to fail or refuse to make reasonable accommodations to the physical or mental limitations of otherwise qualified employees or applicants for employment, unless the employers can demonstrate that a reasonable accommodation does not exist or that an accommodation would impose an undue hardship on the conduct of the employer's business."

Further, it is the policy of the State of Maine to provide reasonable accommodations for qualified individuals with disabilities who are employees or applicants for employment. The Department of Health and Human Services fully supports this policy and will comply with all applicable state and federal laws, regulations, guidelines and policies with respect to providing reasonable accommodations to qualified individuals with disabilities.

**III. RATIONALE**

Historically, DHHS has adhered to a policy of providing reasonable accommodations to the known disabilities of employees and applicants. I earnestly reaffirm this policy and advocate a meaningful program designed to assist employees and applicants with disabilities consistent with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

#### IV. PROCEDURE STATEMENT

1. Requests for accommodations can be initiated by the applicant/employee needing the accommodation, the supervisor/manager, Personnel official, Departmental EEO Coordinators, or Institutional EEO representative. All requests for accommodation must be documented and processed as expeditiously as possible.
2. Requests for accommodations must be made in writing on designated forms and forwarded to one of the Departmental EEO Coordinators listed below within 21 days. **Requests shall not be approved or denied prior to review by one of the Departmental EEO Coordinators and a determination that the decision is consistent with both state and federal law and state policy.**
3. One of the EEO Coordinators will determine whether the request is reasonable within the framework of existing laws and regulations and will consult applicable Program Managers prior to determination, as appropriate. The EEO Coordinator may determine that it is necessary to request a statement from the applicant/employee's treatment provider verifying the limitations/restrictions and necessity for the requested accommodations. If additional information is required, the applicant/employee will be contacted for a release of medical information. Any request for additional medical opinions will be made in accordance with applicable contractual agreements currently in force.
4. If the request is approved, the accommodation will be provided as promptly as possible. If denied, the employee may request that the State EEO Coordinator in the Bureau of Human Resources review the decision. When denied, one of the Departmental EEO Coordinators may refer the employee to the State EEO Coordinator for consideration of transfer as an accommodation beyond the purview of the Department of Health and Human Services.
5. If at any time during the process it is determined that an employee is unable to perform the essential functions of his/her position even with reasonable accommodation, Civil Service Bulletin 8.19 will provide the appropriate steps to explore reassignment of the employee.
6. One of the Department's EEO Coordinators will coordinate provision of reasonable accommodation for employees, or applicants for employment, of the Department. This shall include resolution of complaints or other difficulties regarding reasonable accommodation and enforcement and monitoring of the effectiveness of the procedures taken by the Department to assure compliance with applicable laws and regulations.

Departmental EEO Coordinators can be reached at:

287-4289 (V), 287-2000 (TTY) or 287-3488 (V), 287-4479 (TTY)

## V. DEFINITIONS

**Disability** – A physical or mental or mental impairment that substantially limits one or more of the major life activities of an individual, or a record of such impairment, or being regarded as having such impairment.

**Essential Job Functions** – The fundamental job duties of the position. A job function may be considered an essential job function if employees in the position must perform the function and: 1) the position exists to perform that function, or 2) the function is essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or 3) the function is highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the function.

**Major Life Activities** – Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

**Physical or Mental Impairment** – Any physiological, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine, OR any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**Qualified Individual with a Disability** – Any disabled individual who can perform the essential functions of a position with or without reasonable accommodation.

**Reasonable Accommodation** – Any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. Reasonable accommodations may take such forms as:

- Making a facility accessible to employees
- Job restructuring, within job's classification and compensation without unreasonable impact on other workers
- Some changes or flex in work hours or days
- Providing services or devices to assist hearing, seeing, reading, interpreting
- Reassignment to a vacant position

**Undue Hardship** – Significant difficulty or expense in, or resulting from, the provision of an accommodation. The determination of "undue hardship" takes into consideration anything that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature of the operation of the business.

**VI. DISTRIBUTION**

All staff

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July 15, 2004  
Effective Date

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John R. Nicholas  
Commissioner